

**From:** Edward Kiser  
**To:** Microsoft ATR  
**Date:** 1/27/02 11:12pm  
**Subject:** Microsoft Settlement

Hello,

I am writing in order to comment publicly about the proposed Microsoft settlement, as allowed by the Tunney Act.

I fail to see how Microsoft has done anything but set terms upon the use of its own property. Those terms may be unpleasant for some people, I admit, even as they become very pleasant for others, but such terms do not infringe anyone's rights. They cannot. For who has the right to meddle in a deal between two other people, a deal involving only property which those two people own?

As a Microsoft operating system user, I fail to see how Microsoft could set any terms that would be any worse for me than if it had never created its property in the first place. What if Microsoft charges a million dollars for a license for the next version of Windows? I can refuse to buy it. What if Microsoft creates a patch which disables my favorite software? I can refuse to install that patch, or if I accidentally install it, I can reinstall the operating system from the original CDs and thereby remove the patch. Can Microsoft remotely disable my copy of Windows? No; Microsoft and I have a contract, and I have not accepted, and will not accept, one that gives them remote-disable capabilities. I fail to see how Microsoft can infringe my rights through any licensing scheme or any combination of features or any technical features or any pricing strategy. (Fraud or an infringement of privacy would hurt me, but Microsoft is not accused of those things.)

Even if I were an OEM, or a browser writer, Microsoft could do nothing to me without my consent, except offer my customers a better deal than I can, and take them all away. But customers are not a right; customers choose what is best for them. A business has to earn customers!

It is quite easy to see, on the other hand, how a government of power-hungry politicians and judges could ultimately force me to write software only to its specifications, or the specifications of my competitors. It is easy to see how a government could make people think that they could demand any product from me, merely because they decided it was "possible" for me to make that product-- and how a government could back such demands by force, without regard for whether I chose to make such a product. It is easy to see that anything done to Microsoft sets a precedent that could reach back to me, and any attempts to reassure me that these kinds of punishments

apply only to Microsoft, make me worry more, because that means the principle of equality before the law has been discarded.

It's also easy to see how a corporation such as Netscape might hope to get ahead by buddying up to local politicians and attorneys general, when it fails to get ahead by superior products and, more importantly, business strategies. Netscape's business strategies were more responsible for its fate than Microsoft's strategies. Rather than aggressively adding features to version 4.0, Netscape decided to do a bottom-up rewrite of its browser, which it ultimately had to make open source. Even then, development proceeded so slowly that two key developers eventually resigned. Netscape's bad decisions gave Microsoft time to get farther ahead.

Politicians welcome such a deal as the one they made with Netscape, and they welcome the power that comes with it, while Netscape welcomes the opportunity to vanquish its competition by dishonest means. That's something Microsoft never did. Microsoft has not been dishonest, although it may have aggressively made some predictions about what other people would do and used them to frighten still other people -- who perhaps need not have been frightened. Furthermore, Microsoft never lobbied politicians until it was forced to do so by this very case. In self-defense.

It seems remarkable that OEMs feeling threatened by Microsoft would not have banded together to produce an alternative to Windows. Is it possible that they were prevented from doing so by the same anti-trust laws that Microsoft is accused of breaking?

This case has been a travesty and a sham, and since it is already irreversible, the best thing for America would be if Microsoft got a token sentence and were let alone, and then if this law were found unconstitutional, as it ought to be found.

Sincerely,

Edward Kiser  
Jacksonville, FL